



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 04-112

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 2002.]

1. Statutory Authority

The current rule (s. NR 20.40 (6) (d)) prohibits culling. This rule provides that a fish taken into possession and not released immediately must be included as part of the angler’s daily bag limit. Section 29.4035 (3), Stats., creates an exception to the prohibition on culling in the current rule. This statute allows participants in a bass fishing tournament that is approved by the department in the pilot program to “take bass in excess of the daily bag limit” if specified conditions in the statutes are followed. Under the statute, an angler may release a fish that has been taken into possession during the tournament when the angler has reached the bag limit, and replace the released fish.

The amendment to s. NR 20.40 (6) (d) does not conform with the statutory culling authorization. The current rule provides that a fish taken into possession is included as part of the angler’s bag limit. The proposed amendment states that the existing rule does not apply to anglers in a bass fishing tournament that is part of the pilot program. In other words, the amendment provides that a fish taken into possession in a pilot tournament is not included as part of the angler’s daily bag limit. The statute states that tournament participants may take bass in excess of the daily bag limit by means of culling, within the normal rules for possession and bag limits.

2. Form, Style and Placement in Administrative Code

a. The definition of “live well” in s. NR 20.04 (1) (am) contains all of the standards that must be met in order for a live well to be used in a bass tournament in the pilot program. The rule should place the standards for a live well in the rules for the bass fishing tournament pilot program rather than using a definition for this purpose.

b. Section NR 20.40 (6m) (intro.) is incorrectly drafted as introductory material since it does not end in a colon and lead into the following subunits. [See s. 1.03 (8), Manual.] It should be par. (a) and the following paragraphs should become pars. (b) to (e).

5. Clarity, Grammar, Punctuation and Use of Plain Language

The references to culling of fish in excess of the daily bag limit in s. NR 20.40 (6m) (b) and (c) 4., Stats., could be redrafted. The purpose of the statute is to authorize culling even though the number of fish taken into possession causes the angler to exceed the daily bag limit.